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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,883	03/24/2004	Paul Gait	N1055	5602

23456 7590 09/26/2005

WADDEY & PATTERSON  
1600 DIVISION STREET, SUITE 500  
NASHVILLE, TN 37203

EXAMINER
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CHAMBERS, MICHAEL S

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/807,883

Applicant(s)

GAIT, PAUL

Examiner

Mike Chambers

Art Unit

3711

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election without traverse of claims 15-23 is acknowledged. Claims 1-14 have been canceled by the applicant.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 18 and 19 recite the limitation "the area" in the claim. There is insufficient antecedent basis for this limitation in the claim.

Claims 20 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "the distance at one point" is vague and indefinite. One of ordinary skill in the art would not be able to determine the metes and bounds of the invention.

Art Unit: 3711

**Information Disclosure Statement**

It is unclear why this application was filed with 12 pages of IDS documents some of which appear to have no relevance to the instant invention.

	Document	Title	Issue Date
1	US 2359858	Water-resistant starch and paper containing it [TEXT	19441010
2	US 2342273	Method for detecting oil in well drilling [TEXT	19440222
3	US 2326206	Apparatus for electric heating [TEXT AVAILABLE IN	19430810
4	US 2322830	Anvil for riveting guard ledger plates [TEXT	19430629
5	US 2266981	Inhibiting formation of natural gas hydrates [TEXT	19411223
6	US 2183393	Process and material for producing three color	19391212
7	US 2140080	Combined curtain and shade [TEXT AVAILABLE IN USOCR	19381213
8	US 2112721	Yarn holder [TEXT AVAILABLE IN USOCR DATABASE]	19380329
9	US 1317610	TEXT NOT AVAILABLE	19190930
10	US 1273662	TEXT NOT AVAILABLE	19180723
11	US 1222853	TEXT NOT AVAILABLE	19170417
12	US 1215406	TEXT NOT AVAILABLE	19170213
13	US 1109091	TEXT NOT AVAILABLE	19140901
14	US 1077989	TEXT NOT AVAILABLE	19131111
15	US 0989892	TEXT NOT AVAILABLE	19110418
16	US 0963285	TEXT NOT AVAILABLE	19081110
17	US 0896691	TEXT NOT AVAILABLE	19080818
18	US 0880467	TEXT NOT AVAILABLE	19080225
19	US 0870192	TEXT NOT AVAILABLE	19071105
20	US 0842045	TEXT NOT AVAILABLE	18860518

When document dumps are filed with applications, it slows down the examining process.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

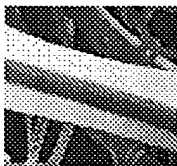
(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-23 are rejected under 35 U.S.C. 102(a) as being anticipated by STX.

STX discloses

a throat for receiving a handle; a scoop distal from the throat; a pair of sidewalls extending from the throat to the scoop, a portion of the length of the sidewalls convex inwardly. Regarding the claimed feature of an inward convex, in as much structure set forth by the applicant in the claims, the device has a portion of the length of the



sidewalls convex inwardly. (page 2). The current claim language does not include any limitations about the convex being on the interior or exterior side of the sidewall.

As to claim 16 : STX discloses a curved sidewall (page 2).

As to claim 17 : STX discloses varying curvature along its length (page 2).

As to claim 18 : STX discloses larger upper area (page 2).

As to claim 19 : STX discloses larger lower area (page 2).

As to claims 20 and 21: STX discloses a greater distance (page 2).

Art Unit: 3711

As to claim 22 : See claim 15 rejection. The opposing middle portions are closer together.

As to claim 23 : See claim 15 rejection. The opposing lower portions curve outwardly.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 571-272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 21, 2005

Michael Chambers  
Examiner  
Art Unit 3711

  
**STEPHEN BLAU**  
**PRIMARY EXAMINER**